

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1335**

Introduced by Bohlke, 33; Dierks, 40; Hudkins, 21; Schrock, 38;  
Stuhr, 24; Wickersham, 49

Read first time January 19, 2000

Committee: Education

A BILL

- 1 FOR AN ACT relating to the Special Education Act; to amend section
- 2 79-1132, Revised Statutes Supplement, 1998, and sections
- 3 79-1110, 79-1142, 79-1144, and 79-1145, Revised Statutes
- 4 Supplement, 1999; to provide for funding for high-needs
- 5 special education students; to harmonize provisions; and
- 6 to repeal the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 79-1110, Revised Statutes Supplement,  
2 1999, is amended to read:

3           79-1110. Sections 79-1110 to 79-1183.01 and section 6 of  
4 this act shall be known and may be cited as the Special Education  
5 Act.

6           Sec. 2. Section 79-1132, Revised Statutes Supplement,  
7 1998, is amended to read:

8           79-1132. The State Department of Education shall provide  
9 grants for the costs of the special education programs approved by  
10 the State Department of Education to the school district of  
11 residence for children with disabilities who are less than five  
12 years of age. Educational service units or cooperatives of school  
13 districts recognized as regional planning entities by the State  
14 Board of Education pursuant to section 79-1135 shall be eligible to  
15 receive grants for cooperative programs for such children with  
16 disabilities who are less than five years of age if such  
17 educational service units or cooperatives have complied with the  
18 reporting and approval requirements of such section. The grants  
19 shall be one hundred percent of the costs of such programs and  
20 shall continue to be one hundred percent as long as the funding for  
21 such grants comes from federal funds. For special education  
22 programs and transportation provided to children with disabilities  
23 who are less than five years of age in fiscal year 1995-96 and each  
24 fiscal year thereafter, if federal funding pursuant to the federal  
25 Individuals with Disabilities Education Act, Part B and section 619  
26 flow-through funds is inadequate at any time to pay one hundred  
27 percent of the allowable costs of such programs and transportation,  
28 the amount of the grant payments provided by the department shall

1 be a pro rata amount as determined by the State Board of Education  
2 from appropriations for ~~special education~~ reimbursements pursuant  
3 to this section and sections 79-1142 and 79-1144 approved by the  
4 Legislature and based on such allowable costs for all special  
5 education programs and transportation to children with disabilities  
6 who are less than five years of age. The grant payments based upon  
7 claims submitted shall be made by the State Department of Education  
8 to the school district of residence, educational service unit, or  
9 regional planning entity recognized by the State Board of Education  
10 pursuant to section 79-1135 each year.

11           Sec. 3.     Section 79-1142, Revised Statutes Supplement,  
12 1999, is amended to read:

13           79-1142.   (1) Level I services refers to services  
14 provided to children with disabilities who require an aggregate of  
15 not more than three hours per week of special education services  
16 and support services and includes all administrative, diagnostic,  
17 consultative, and vocational-adjustment counselor services.  
18 Support services means preventive services for students not  
19 identified or verified as having a disability pursuant to sections  
20 79-1118.01 and 79-1138 but who demonstrate a need for specially  
21 designed assistance in order to benefit from the school's general  
22 education curriculum. The total allowable reimbursable cost for  
23 support services shall not exceed a percentage, established by the  
24 State Board of Education, of the school district's or approved  
25 cooperative's total allowable reimbursable cost for all special  
26 education programs and support services. The percentage  
27 established by the State Board of Education for support services  
28 shall not exceed ten percent.

1           (2) ~~For special education and support services provided~~  
2 ~~in each school fiscal year, the~~ The State Department of Education  
3 shall reimburse each school district in the following school fiscal  
4 year a pro rata amount determined by the State Board of Education  
5 from appropriations for ~~special education reimbursements pursuant~~  
6 to this section and sections 79-1132 and 79-1144 approved by the  
7 Legislature and based on allowable excess costs for all special  
8 education programs and support services not included in  
9 reimbursements pursuant to section 6 of this act.

10           (3) Cooperatives of school districts or educational  
11 service units shall also be eligible for reimbursement for  
12 cooperative programs pursuant to this section if such cooperatives  
13 or educational service units have complied with the reporting and  
14 approval requirements of section 79-1155 for cooperative programs  
15 which were offered the preceding year. The payments shall be made  
16 by the State Department of Education to the school district of  
17 residence, cooperative of school districts, or educational service  
18 unit each year in a minimum of seven payments between the fifth and  
19 twentieth day of each month beginning in December. Additional  
20 payments may be made based upon additional valid claims submitted.  
21 The State Treasurer shall, between the fifth and twentieth day of  
22 each month, notify the Director of Administrative Services of the  
23 amount of funds available in the General Fund for payment purposes.  
24 The director shall, upon receiving such certification, draw  
25 warrants against funds appropriated.

26           Sec. 4. Section 79-1144, Revised Statutes Supplement,  
27 1999, is amended to read:

28           79-1144. Funds shall be appropriated by the Legislature

1 to carry out sections 79-1142 to 79-1144 and 79-1147. Such funds  
2 shall be channeled through the State Department of Education. The  
3 department is authorized to expend such funds upon proper vouchers  
4 approved by the department and warrants issued by the Director of  
5 Administrative Services for financial reimbursement to school  
6 districts, educational service units, special education  
7 cooperatives created by school districts, agencies, and parents or  
8 guardians, including (1) reimbursement for the amount expended  
9 pursuant to section 79-1129 for actual transportation expenses per  
10 year for children with disabilities a pro rata amount which shall  
11 be determined by the State Board of Education from appropriations  
12 for ~~special education~~ reimbursements pursuant to this section and  
13 sections 79-1132 and 79-1142 approved by the Legislature based on  
14 all actual allowable transportation costs, (2) reimbursement for  
15 instructional aids and consultative, supervisory, research, and  
16 testing services to school districts, and (3) reimbursement for  
17 salaries, wages, maintenance, supplies, travel, and other expenses  
18 essential to carrying out the provisions for special education  
19 programs. Minor building modifications shall not be eligible for  
20 state reimbursement as an allowable expense. Applications for  
21 state reimbursement for actual transportation expenses shall be  
22 submitted to the department annually on a date and on forms  
23 prescribed by the department. Amendments to applications for  
24 actual transportation expenses shall be submitted on dates  
25 prescribed by the department during the school year in which the  
26 original application was made.

27 Sec. 5. Section 79-1145, Revised Statutes Supplement,  
28 1999, is amended to read:

1           79-1145. ~~For each fiscal year, the~~ The aggregate amount  
2 of General Funds appropriated for special education programs and  
3 support services pursuant to sections 79-1129, 79-1132, and 79-1144  
4 shall not exceed the aggregate amount of General Funds appropriated  
5 pursuant to such sections for the previous fiscal year, multiplied  
6 by one plus a rate of three percent. For the appropriation for  
7 school fiscal year 2001-02, the maximum appropriation as limited by  
8 this section shall be reduced by eighty percent of the  
9 appropriation for section 6 of this act.

10           Sec. 6. (1) Beginning with school fiscal year 2000-01,  
11 the Legislature shall specifically appropriate funds for  
12 reimbursements to school districts, cooperatives of school  
13 districts, or educational service units pursuant to this section  
14 for high-needs special education students.

15           (2) For purposes of this section, high-needs special  
16 education students are students who qualify for special education  
17 services and either:

18           (a) The allowable excess costs directly related to the  
19 provision of special education services and transportation for the  
20 student are equal to or exceed the qualifying level; or

21           (b) The student is not a ward of the state or any court  
22 and the student resides outside of his or her resident school  
23 district in a residential setting operated by a service provider  
24 which either is certified or licensed by the Department of Health  
25 and Human Services Regulation and Licensure or is enrolled in  
26 medicaid.

27           (3) The qualifying level shall start at thirty thousand  
28 dollars for services and transportation provided in school fiscal

1 year 2000-01 and shall increase for each school fiscal year  
2 thereafter by the basic allowable growth rate established in  
3 section 79-1025.

4 (4) For audited allowable excess costs directly related  
5 to the provision of special education services and transportation  
6 for high-needs special education students, the State Department of  
7 Education shall fully reimburse each school district, cooperative  
8 of school districts, or educational service unit in the following  
9 school fiscal year. The payments shall be made to the school  
10 district of residence, cooperative of school districts, or  
11 educational service unit as determined by rules and regulations  
12 adopted to carry out this section.

13 (5) Each school district, cooperative of school  
14 districts, or educational service unit which expects a student to  
15 be a high-needs special education student shall submit the expected  
16 allowable excess costs to the department in a form prescribed by  
17 the department for a pre-audit. Upon completion of the school  
18 fiscal year, the district, cooperative of school districts, or  
19 educational service unit shall submit the allowable excess costs to  
20 the department for a final audit prior to reimbursement.

21 (6) The department shall adopt and promulgate rules and  
22 regulations to carry out this section.

23 Sec. 7. Original section 79-1132, Revised Statutes  
24 Supplement, 1998, and sections 79-1110, 79-1142, 79-1144, and  
25 79-1145, Revised Statutes Supplement, 1999, are repealed.